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NOMINATIONS

HEARING

BEFORE THE

COMMITTEE ON LABOR AND HUMAN RESOURCES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

WILLIAM M. BELL, OF MICHIGAN, TO BE CHAIRMAN

AND

MICHAEL J. CONNOLLY, OF MICHIGAN, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

OCTOBER 6, 1981

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NOMINATIONS

TUESDAY, OCTOBER 6, 1981

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 2 p.m., in room 4232, Dirksen Senate Office Building, Senator Orrin G. Hatch (chairman of the committee) presiding.

Present: Senator Hatch.

OPENING STATEMENT OF SENATOR HATCH

The Chairman. Mr. Bell, the President has nominated you to provide the leadership to the Equal Employment Opportunity Commission, an agency which Congress has long considered the cornerstone of our Government's effort to eliminate illegal discrimination in our Nation's workplace. The Supreme Court reaffirmed that point when it indicated that title VII was designed to provide the most complete relief for victims of individual discrimination.

At a time when critics are accusing this Congress and this administration of abandoning our commitment to eliminate discrimination in this country, it is important that we make it clear that this administration will not allow discrimination as proscribed by title VII and other statutes and will do everything within its power to eliminate it.

I am certain we will demonstrate this commitment by strengthening the EEOC's capacity to carry out its mission as mandated by Congress in 1964, and as reaffirmed in 1972. That means that this committee and you will have to work together, sometimes in partnership and sometimes as your critic, but always in the interest of making the EEOC an efficient and effective agency for ending discrimination.

I emphasize efficient because during the past months this committee has started to review the problems in the operation of the EEOC as part of our oversight responsibility. Your predecessor, Jay Clay Smith, is to be commended for the initiatives he has taken in starting to come to grips with some of the problems which have existed in the EEOC, and for his cooperation with this committee in conducting the GAO audit which I recently requested.

Two recent GAO reports raised critical questions about EEOC's operations. The April 21, 1981, audit reported numerous instances of mismanagement, such as the purchase of equipment which is sometimes unused and still in its original cartons, and, in addition, poor financial controls.

The report also pointed out that attorneys were not being used effectively. That is, while the normal attorney caseload should number 10 cases at a time, the average caseload as of June 1980 consisted of 3 cases for 304 attorneys in the district office.

While some are concerned about budget cutbacks at that agency, I am concerned about that agency being able to manage what resources it does have effectively in carrying out its mandate or whether it can even account for its expenditures.

On April 9, 1981, GAO also reported that the EEOC's enforcement activities were being undermined because of a 50-percent rate of settling charges which included cases over which they have no jurisdiction whatsoever. I am informed EEOC evaluates its compliance officers for merit pay increases on the number of settlements and benefits it gets for the complainants even though, according to GAO, a substantial number of these complaints have no merit.

I have here the evaluation form EEOC uses which indicates that two of the performance standards used are: One, a call for 45 percent settlement rate with benefits, and, two, an average of $1,200 benefits per charge closed. I find such practices, if true, to be a shadow on our quest for justice.

How can an agency entrusted with assuring equality of treatment only provide half justice to employers? I am requesting that your first order of business be to look into this matter and report back to this committee your findings and your corrective action if deemed appropriate within the next 90 days. Would you be willing to do that?

Mr. BELL. I would, sir.

The CHAIRMAN. Thank you so much.

Without objection, I will enter this form for the record at this particular point.

[The form referred to follows:]

should be numbered 1c, 1b, etc. Be sure to indicate the measure of completion and time frame in the appropriate column. Measure of completion is the end result for example, a report, a set of guidelines, a meeting, etc. Time frame is when the end result should be accomplished.

ELEMENT STATEMENT	STANDARD NUMBER	PERFORMANCE STANDARDS	MEASURE OF COMPLETION	TIME FRAME
ge/Process-	1a.	To identify - ELI's acceptabel to TMC.	N/A	N/A
	1b.	45% of closures or transfers were settlements or withdrawals with benefits.	EEOC FORM 396	Quarterly
	1c.	40% of charges in Unit 120 days after receipt by Unit.	EEOC FORM 396	Quarterly
	1d.	An average of 147 days processing time of charges closed in Unit.	EEOC FORM 396	Quarterl
	1e.	An average of $1200 monetary benefit per charge closed.	EEOC FORM 396	Quarterl
rection of oordinates	2a.	To maintain a case management system which specifies assigned caseload, processing time frames, and quality of action for each EOS in unit.	Tracking Form	Continu
	2b.	To conduct unit personnel actions in accordance with agency and office personnel guidelines, collective bargaining agreement, and equal employment opportunity and affirmative action guidelines.	Acceptable Documentation	Continu
velopment & aining	3a.	To request delivery of training for all unit employees based on a needs assessment, to develop a training plan as is necessary to increase the efficiency and effectiveness of the unit's operation, and to provide continuing on-the-job training.	Quarterly Report	Quarte
	3b.	To conduct monthly meetings with each EOS to review, update and ensure compliance with his/her case management plan and to provide appropriate direction, including identifying strengths and weaknesses.	Monthly Report	Continu

Signatures on this document certify an understanding of the identified Job Elements and Performance Standards.

EE'S SIGNATURE — DATE

ISOR'S SIGNATURE — DATE

WING OFFICIAL'S SIGNATURE — DATE

The CHAIRMAN. Other reports indicate the agency has serious financial management problems. I have asked the GAO to place a high priority on completing a study of those problems as quickly as possible. I have requested the report to be completed at the end of this month in order to assess the extent of the problem as quickly as possible and to take corrective steps.

This committee will be reviewing the EEOC carefully and thoroughly. While I have dwelled on the management aspects of EEOC, I am greatly concerned about the promulgation of regulations which do not reflect existing law but rather the personal interest of the staff. As part of our oversight responsibility, we will be examining certain regulations in greater detail. As such, I am requesting your full cooperation so we can make a new beginning in helping the EEOC to go forward and to go forward properly.

I have long been an advocate of the Civil Rights Act of 1964, as amended, and especially title VII which aims at eliminating discrimination based on impermissible grounds of employment.

While some credit the Executive Order 11246, the affirmative action order, for the strides which have been made in improving the number of employment opportunities for women and minorities, I would suspect that the enforcement of title VII has made employers more aware of the need to eliminate discrimination and that this has been a significant force for improving the employment opportunities for women and minorities.

Finally, I hope that we can recommit ourselves to work toward the elimination of discrimination, and as the chairman of this committee, I look forward to working with you for the realization of those values toward which all America aspires: equality and justice.

At this point, a statement by Senator Gordon Humphrey will appear in the record without objection.

[The prepared statement of Senate Humphrey follows:]

PREPARED STATEMENT OF SENATOR GORDON HUMPHREY

Senator HUMPHREY. Mr. Chairman, I'm sorry that other committee responsibilities will prevent me from attending the hearing on the nominations of William Bell and Michael Connolly to be Chairman of, and General Counsel to, the Equal Employment Opportunity Commission, respectively. I look forward to reading the testimony of Mr. Bell and Mr. Connolly and the witnesses who will testify concerning their nominations.

The CHAIRMAN. Mr. Bell, we would be happy to have your statement at this point. Please proceed.

STATEMENT OF WILLIAM M. BELL, TO BE CHAIRMAN, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. BELL. Mr. Chairman, I sincerely appreciate the opportunity to appear before this committee and to present myself for questions concerning my appointment as chairman of the Equal Employment Opportunity Commission. Let me add that I am honored that President Reagan has proposed me for this high office.

For 17 years, the Equal Employment Opportunity Commission has gathered, amassed, analyzed, and digested an amazing amount

of recruitment and promotion records and statistics. With this statistical data and the zealous efforts of the commissioners, administrators, and workers at the agency, the provisions of title VII have been enforced with vigor and measurable success.

Seventeen years of enforcement of the act by the Equal Employment Opportunity Commission and its interpretation by the U.S. Supreme Court and the Federal lower court system has unequivocally made the point that the Federal Government gives moral and legal sanction to equal employment opportunity.

While these sanctions have not resulted in the perfection of the opportunity structure, the enforcement processes have led to the hiring and promotion of significant numbers of minorities and women and substantially improved their employment status.

I am ever mindful of the distance that has been covered, but I have a genuine concern about the future opportunity for minorities and women and the productive output of the country as a whole. Therefore, I believe that new strategies must be introduced to meet new conditions and to guarantee that the recruitment and promotional system in the work force should become a well-developed, self-supporting, and self-perpetuating entity.

It is quite possible that now is the time for the Government, management, labor, and the affected classes to earnestly and mutually assess whether in fact a takeoff point has been reached. At such a point, emphasis can be shifted away from the advocate and adversary approach toward a system yet to be devised by management, labor, and Government, which will enhance self-operation of the equal employment opportunity system in the marketplace.

It is absolutely essential that no element of American society be constrained to declare that the Equal Employment Opportunity Commission is anti-business or is ever skewed in that direction by agency interpretation or guidelines not within the express or implied intent of Congress.

The Government must insist that management must take a larger responsibility in resolving the admittedly still enormous task of implementing fair and nondiscriminatory employment standards. These standards have been slowly and painfully forged through the enforcement of title VII over the past 17 years to alleviate 400 years of racism inherent in our national employment structure.

There is a need to continue to search for ways to minimize the use of arbitrary and noneconomic criteria in decisions to hire, train, and promote. Innovative, decisive action on the part of the employers, labor, the affected classes, and the Government in producing such methods and implementing them will result in a higher level of output. It will make for a condition of growth, balanced and vigorous, favorable to the advancement of minorities and women, and to the country as a whole.

Thank you, sir.

The Chairman. Thank you, Mr. Bell.

My colleague, John Heinz, chairman of the Subcommittee on Aging, has requested that I submit a series of questions for your response in writing. They pertain to enforcement efforts of the Age Discrimination Employment Act. If you would, I would like you to

respond to his questions within the next 30 days, and, in fact, it would be well if you could do it right away.

Mr. BELL. Yes, sir.

[The questions referred to with responses follow:]

QUESTIONS AND ANSWERS ON FINANCIAL STATEMENT AND
PROFESSIONAL EXPERIENCE OF WILLIAM BELL

1. Q. First, concerning your educational history, you stated that you earned your B.A. from the University of Michigan in 1948 and that you attended the business school at that University during 1953 and 1954, when you were awarded your M.B.A. Nowhere on your statement are the years between 1948 and 1953 accounted for. Would you please complete the record on this point?

   A. 1948-50 - University of Detroit Law School. 1950-52 - U.S. Army Infantry (Georgia and Germany).

2. Q. Turning to more recent time, the position that you have listed from 1976 to date, the President of Bold Concepts, Inc., an organization that you variously characterize as a personnel or executive recruitment agency. Since you indicated no other sources of salary except from Bold, Inc. in recent years, it is your representation to this committee that since1976 this has been sole source of employment?

   A. Yes

3. Q. On the forms you submitted to this Committee, you have in places described Bold, Inc. as engaged in the business of executive recruitment. Such business generally charge a fee, upfront, to their clients whereas employment and personnel agencies charge fees contingent on placement. In the State of Michigan, separate licenses are required for employment agencies and executive recruitment. Could you explain your fee arrangements with your clients?

   A. The employer pays the fee.

4. Q. You have been President of Bold, Inc. since 1976, but State records show that a license was not issued for the company until June 29, 1978. Did you operate without a license prior to 1978? Why did you not seek a license before that time?

   A. I started Bold Concepts Inc. in 1976, however, I did not start recruiting until 1978.

5. Q. Your statements filed with the Committee note your wife's employment with a department store in Detroit. Have you received any income of any kind in the last five years outside of your salary and your wife's salary?

   A. Yes. Proceeds from the sale of my house.

6. Q. Have you in the last five years received any income from your brother Edward Bell? Has your brother provided any goods, services, or items of value to you or Bold, Inc.

   A. My brother, Edward F. Bell, has provided office space, telephone, and the use of some secretarial services from his personnel to Bold Concepts, Inc.

7. Q. Mr. Bell, Bold Concepts, Inc. is not listed in either the white or yellow pages of the Detroit telephone directory, nor is its number available from the operator. Would you please explain how you do business? Is this a full-time occupation for you? How do you obtain your clients? How many clients have you placed so far this year? What is the average number of placements for each of the last five years? What is the average starting salary for the applicants you place? What is your commission on these placements? How do you keep your accounts? Are your books kept separately from your brother's?

   A. I go out and solicit clients by contracting personnel offices directly.
   Yes.
   None.
   Through solicitation.
   $18,000.00.
   Twenty-five (25%).
   I keep accounts on the basis of receipts issued to me and by me.
   Yes.

8. Q. Does Bold Concepts, Inc. have stock? How is such stock listed. Who owns the shares in Bold Concepts, Inc.? Who are the officers. How many employees do you have?

   A. Yes it does have stock.
   It isn't.

William Bell and Patsy Bell.
William Bell and Patsy Bell.
None except myself.

9. Q. Mr. Bell, I am sure you are aware the EEOC has historically been criticized for poor management. Only in recent years have the severe management and administrative problems that consistently hampered the agency's functioning been overcome. In view of this agency's history, one essential qualification for an EEOC Chairman is expertise in managing a large decentralized organization. The EEOC has over 3,000 employees and a budget of over $100 million. Over 50,000 complaints were filed last year. Your resume indicates that your own management experience has been limited to small business. It is my understanding, for example, that your executive recruiting firm, Bold, Inc., has never employed more than four people. Please describe the management and administrative experience that you would bring to the EEOC Chairmanship.

   A. My management experience has been derived from activities in civil right and political activities. I have managed campaigns involving thousands of people (Cleage for Detroit City Council - Bell for Detroit City Council) and have been on the boards of ad hoc committees administering hundreds of thousands of dollars (Citywide Citizens Action Committee - Detroit - Group on Advanced Leadership - Detroit).

10. Q. To date, virtually all previous Chairmen and women of the EEOC have been attorneys. I understand that you are not. Won't your lack of legal experience and understanding of EEO law put you at a disadvantage in reviewing cases brought before the Commission? How do you intend to compensate for your lack of training in this area? What steps do you plan to take to become more familiar with EEO law?

   A. The Commission employees some 400 lawyers and provides general counsel. I will consult with counsel and others familar with statute and case law.

11. Q. In the papers you sent to the Committee, you report a temporary consulting position with the EEOC in 1975 and 1976. Was this a full-time

position? How were you chosen for the post? How many consultants were on the payroll when you were there? Was this a fill-time position? What exactly were your duties? What field offices did you work in? To whom did you report? Did you write a report on your activities that the Committee could review? How much of your time was spent here in Washington?

11. A. Yes. Full-time. Chosen on the basis of merit. I do not know the number I conducted a survey on the attitudes of the people affected by or interested in the affairs of the Commission. I did write a report. I spent about one-half of time in Washington.

12. Q. Over the years, civil rights and women's groups, have been active in monitoring the EEOC on behalf of their affected constituencies. Your nomination has been of great interest. Three of these organizations have asked to testify here today. In checking with the leaders of established and respected civil rights groups both here in Washington and in your hometown of Detroit, we have encountered a uniform reaction. Mr. Bell. None of these people are accquainted with you. They do not know you as someone who has been active in civil rights issues. Would you care to comment?

A. Many in Detroit have been aware of my interest and commitment to Civil Rights such as the Group on Advanced Leadership (GOAL), the City wide Citizens Action Committee, the International Labor Union, and The Freedom Spotlight for which I served as Editor and Publisher.

13. Q. In the recent past the EEOC Chairman has maintained an "open door" policy and has been willing to meet regularly and often with representatives of both business and affected classes. Will you continue this policy?

A. It is my intention to continue the policy of an open door for all people concerned and affected by the EEOC - a policy that I understand has been followed by all preceding Chairman.

14. Q. It has been 15 years since the Civil Rights Act became law. Yet today only a small percentage of management positions are filled by minorities. From your experience in the personnel business, what are the greatest barriers still facing Blacks and Hispanics seeking professional positions

in the corporate world? Do you believe the federal government has a responsibility to eliminate these barriers? How far should the federal government go to eliminate discrimination? As Chairman of the EEOC, how will you go about lessening discrimination and insuring equal access to jobs for minorities and women.

A. The greatest barriers for Blacks and Hispanics is entering the line positions as opposed to staff positions. Policies at the federal government have been successful to date in some areas and while the federal government has a legitimate role it cannot be expected to be responsible for an individual's or a group's total economic well being.

As far as our society, deems legally appropriate.

MANAGEMENT AND POLICY

1. Q. Currently, there are in circulation proposals, often referred to as the "Wednesday Group Proposals," for assigning the enforcement responsibility of Title VII, and other civil rights laws presently under the jurisdiction of the EEOC, to the Department of Justice. What assurance can you give to this Committee that your tenure at the EEOC will be marked by the continuance of an independent EEOC; that it will remain the lead EEOC enforcement agency as embodied in the Civil Rights Reorganization Act of 1977, and what specific measures do you intend to take to insure that their backlog will continue to decrease?

   A. I intend to work with other government agencies and will vigorously pursue our mandate. With regard to specific measures I want to assess the situation and deploy whatever appropriate resources to assure a speedy resolution of this situation through such means as more thorough training.

2. Q. Many people believe that the EEOC has itself created EEOC law when in fact many of the significant court decisions in this field came about as the result of litigation by private parties. The Griggs case is one such example. Are you aware of the agency's obligation to follow established legal precedent in its enforcement of Title VII and related statutes?

   A. Yes. I am aware of this.

3. Q. Mr. Bell, there have been a number of significant court cases and issues affecting EEO law and the EEOC's enforcement of the law. Can you give us your sense of the importance of the Griggs case? The Bakke case? Tell us what showing is necessary to establish a prima facie Title VII violation?

   A. The Griggs case deals with disparate impact discrimination.

   The Bakke case said that racial preferences could be used.

   A prima facie Title VII violation is established when there was a job posted that you made application for and you were:

1. Protected by Title VII.
2. You had applied and were qualified for the job.
3. Despite your qualifications you were rejected
4. After your rejection the position remained open, the employer continued to seek applicants from persons with similar qualifications or that position was filled by someone who was not minority or female.

4. Q. Regulatory reform was a top priority of the last Administration. The EEOC, as a result of the fundamental overhaul that took place over the last five years, stands in the vanguard of this movement. A tangled maze of bureaucratic procedures was eliminated, a separate mechanism for the development and handling of systemic cases was instituted, management by objective and new financial accountability systems were activated. The EEOC's management accountability system was cited by the OMB as one of the most innovative in government. I have here several newspaper and periodical articles which document these changes. May we have your assurance that as Chairman of the EEOC you will protect and promote these reforms?

   A. I will study these reforms at assess their best implementation and application.

5. Q. The Regulatory Reform Task Force chaired by Vice President Bush is reviewing the EEOC's guidelines on sexual harassment and uniform selection. This Committee held hearings last spring on the problem of sexual harassment and found it to be more commonplace than most of us would have believed. What is your understanding of the Task Force's agenda with regard to these guidelines? Is it their intent to revise or withdraw them? Can we have your assurance that you will consult with this Committee before any final action is taken on these guidelines?

   A. I have not had an opportunity to fully study these as of this date.

   I will consult with the Senate Labor Committee and will parties on these issues.

6. Q. One of the most important organizational changes in EEOC structure, which has been credited with promoting a tremendous increase in the efficiency of the agency, was the abolition of a compartmentalized regional offices and consolidation of litigaion, investigation and administrative functions at the district levels. this reform has been emphatically endorsed by OMB and the GAO. Can we rely on you to keep this fundamental and vital organizational restructuring intact?

   A. Until I have have the opportunity to study this restructure I will have to defer any judgment at this time.

7. Q. As I am sure you are aware, in the last five years we have witnessed a marked turnaround in the case processing capacity of the EEOC. Its chronic backlog of cases was for the first time permanently and substantially reduced, and the time involved in processing a case has been pared down from a matter of years to a matter of weeks. Can we rely on your commitment to the policies and processes, such as rapid charge processing and coordination with state and local EEO offices, that have produced such favorable results?

   A. While any fair expeditious process is welcome it is my understanding that the total caseload is still increasing and therefore in my opinion more needs to be down in this area.

8. Q. Mr. Bell, as you know from personal experience, there was a time when the EEOC employed a rather extensive group of consultants. This practice came under sharp criticism, and an emphasis was placed upon development of in-house agency expertise so that costly consulting contracts could be avoided in all but the most unusual situations. As a result this costly practice was finally ended some years ago. Unfortunately, other federal agencies have continued to hire consultants and have been severely criticized by GAO and others. Can we have your assurance that you will not reinstitute this wasteful practice at the EEOC.

   A. I am going to studiously avoid any wasteful practices. This is in line with this Administration's emphasis on economy.

9. Q. The EEOC was a pioneer in internal management reform and has set in place an effective system for evaluation of staff based on their performance of assigned tasks. Can we have your assurance that any personnel transfer decisions necessitated by budget cuts and staff reductions will be made only after careful review of work performance and by established procedures so that the agency will not throw back into the management disarry that characterized its early days.

A. We are going to emphasize merits and ability in staffing the positions at the EEOC.

10. Q. Under Civil Rights reorganization, the EEOC received the authority to coordinate the federal government's EEO responsibilities, including investigation and resolution of charges of discriminatin. As Chairman of the EEOC you will be entrusted with carrying out these responsibilities. How effectively will you be able to administer your duties in light of this administration's de-emphasis of the federal government's role in civil rights enforcement and its re-emphasis on voluntary compliance by employers?

A. I don't accept the premise that this Administration has de-emphasised the federal government's role in Civil Rights enforcement.

11. Q. We often hear these days of the tremendous amount of paper work required by government agencies, particularly the burden it has placed on employers to supply EEO information to the EEOC and other EEO enforcement agencies. How do you intend to respond to this so-called paper work burden imposed on employers while maintaining adequate records and information important to the EEOC's duty of investigating, conciliating and litigating employment discrimination?

A. I will study the present process in use and attempt to reduce the paper work burden without reducing the effectiveness of EEO enforcement.

12. Q. This Committee would like to know whether or not you are in agreement with the recent testimony by William Bradford Reynolds (Assistant Attorney General for the Civil rights Division at the Department of Justice) before the House Subcommittee on Employment Opportunities

in which Mr. Reynolds proclaimed that the Justice Department will no longer seek class-wide relief where eveidence indicates that an employer has engaged in systemic discrimination but rather relief will focus on qualified individuals who can show that they were the victims of discrimination.

A. There appears to be some disagreement over the meaning of Mr. Reynold's testimony and I look forward to discussing his views with him after I an in office.

13. Q. Do you believe that the EEOC should adopt the position the Department of Justice has taken with regard to limiting the remedies it will seek to redress employment discrimination to individuals victims of discrimination?

A. My previous answer is applicable here as well.

14. Q. Did the EEOC approve the new policies articulated by the Justice Department (9-23-81) testimony of Bradford Reynolds as required by Executive Order 12067? If not, why not?

A. Since I an not at the Commission at this time I have no way of knowing.

PETE V. DOMENICI, N. MEX.
CHARLES H. PERCY, ILL.
NANCY LANDON KASSEBAUM, KANS.
WILLIAM S. COHEN, MAINE
LARRY PRESSLER, S. DAK.
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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, D.C. 20510

September 18, 1981

Senator Orrin G. Hatch
Chairman, Senate Committee
on Labor and Human Resources
Room 4230
Dirksen Office Building
U.S. Senate
Washington, D.C. 20510

Dear Senator Hatch:

The Labor and Human Resources Committee is scheduled to hold confirmation hearings on Mr. William Bell for the position of Chairman of the Equal Employment Opportunity Commission on Tuesday, September 22. Since that agency has enforcement responsibilites for the Age Discrimination in Employment Act, I am writing, as Chairman of the Special Committee on Aging, to express my interest -- and concern -- about Mr. Bell's views on enforcement of the age statute.

I would like to submit the attached questions pertaining to the views of Mr. Bell regarding the enforcement of the ADEA. I hope that these may be of some use to you at the confirmation hearing. I would also ask that they be submitted in written form to Mr. Bell for his complete responses and become part of the confirmation record.

Thank you for your assistance in this matter.

Warm regards,

JOHN HEINZ
Chairman

JH/mbh
attachments

Questions for Mr. William Bell, Chairman Designate of the Equal Employment Opportunity Commission submitted by Senator John Heinz, Chairman of the Senate Special Committee on Aging at Confirmation hearings before the Senate Committee on Labor and Human Resources, September 22, 1981.

1. Charges filed under the Age Discrimination in Employment Act (ADEA) have increased by over 50% since the Equal Employment Opportunity Commission (EEOC) assumed jurisdiction for enforcement of the Act. What, in your opinion, accounts for this increase?

2. Are employers as much aware of the ADEA and EEOC enforcement of that statute as they are of the Commission's Title VII activity? What can the EEOC do to achieve greater voluntary ADEA compliance on the part of employers?

3. The Senate Special Committee on Aging is planning to conduct oversight proceedings on the Commission pertaining to its enforcement of the ADEA. One of the reasons for oversight review is that there have been some reports that conflicts exit between enforcement of the age statute and Title VII -- especially regarding differences in levels of staff and budget allocations for enforcement of the two statutes. What are your current views on this issue? How soon after confirmation can you report fuller views to the Committee?

4. In its report to the Congress, the Commission noted that ADEA charges increased from 5,374 in 1979 to 8,779 in 1980 -- an increase of roughly 60%. Charges may exceed 10,000 by the end of this fiscal year. How large in terms of staff and budget allocation is the current age enforcement program in the EEOC? Is the program large enough to handle the increasing case load? What changes do you intend to make to increase the effectiveness of EEOC's performance in handling increasing case loads under the ADEA?

5. As a result of recent proposed budget cuts there may be reductions in resources for the EEOC. How will you assure that any budget reductions will not affect ADEA enforcement in a disproportionate manner?

6. The Commission recently voted in favor of regulations which exempt apprenticeship programs from ADEA coverage. Your predecessor, the former Chair person of the Commission did not support that position. What are your views on the issue?

7. Some individuals feel that age discrimination functions should be absorbed into Title VII and that the ADEA, as a separate statute, should be abolished. What are your views on this matter?

The CHAIRMAN. What is your view of the mission of the EEOC?

Mr. BELL. Sir, my view of the mission of the EEOC is to enforce title VII to eliminate discrimination on an arbitrary basis in connection with hiring, firing, and promotion policies.

The CHAIRMAN. What criteria will you use to measure the success of the EEOC during the coming years?

Mr. BELL. The bottom line is to have complaints resolved fairly and efficiently. To accomplish this, we contemplate the improvement of the investigative techniques by training programs to make complaints that are pursued by the agency more concise and exact. This will be one of our highest priorities.

It will be done to give the complainant a more accurate assessment of the merits of the charge so that in the event that the agency follows through in the process, he or she will feel comfortable about the likelihood of success.

Further, meritless charges can be discharged without being a burden on either employee or employer. We intend to emphasize the voluntary compliance and will offer all the resources of the Commission to employers who wish to undertake this type of program.

We will encourage a more viable participation in problem solving decisions by the affected classes, labor, and the employer. This will be done in an effort to design new strategies for dealing with some of the admittedly hard problems still in existence.

The CHAIRMAN. In your statement, you talk about new strategies to meet new conditions. Could you define for me what you mean by new strategies?

Mr. BELL. New strategies will address the need for the marketplace to monitor and correct any imbalances imposed on the basis of arbitrary discrimination. While no Federal intervention would be the ultimate situation, in the meantime, problems of predicting how the market would function with more or less intervention and how the affected classes will respond to different types of intervention strategies will prove to formidable.

The CHAIRMAN. The EEOC has been criticized for not closing cases or for initiating suits within its own 180-day deadline. This leaves the complainant, as you know, without redress to his or her grievance. It also leaves the employer in a state of flux. Do you have any proposed solutions to this problem?

Mr. BELL. This is one of our primary concerns. We are very much aware of these complaints. This is one of the reasons we are going to address ourselves to a training program and to a review of the policies that impact on this sort of a procedure.

The CHAIRMAN. The Commission has been repeatedly criticized by members of this committee and others for issuing guidelines which are contrary to or undercut the substantive holdings made by courts in their decisions.

Of particular concern are portions of its guidelines on sexual harassment, pregnancy discrimination, accommodation of religious beliefs, and the Age Discrimination and Employment Act. On several points, these guidelines do not, in our opinion, reflect existing law. It seems to me that rather than reflecting existing law, they appear to state what the Commission staff seems to feel the law to be.

Do you intend to leave these guidelines in place or do you intend to replace them after a thorough review if they are inconsistent with existing law?

Mr. BELL. We intend to subject them to a thorough review. We are conscious of the complaints that emanate from this source also. We do contemplate a thorough review, and on the basis of that review we hope to reconcile them with the court decisions. We will be in constant communication with our general counsel in terms of reconciling them.

The CHAIRMAN. When will you be able to report back to the committee concerning your findings in this area?

Mr. BELL. I would request that we be given a reasonable time to undertake this assessment.

The CHAIRMAN. In your role as chairman, what steps will you take to insure that any future guidelines by the Commission reflect the existing law?

Mr. BELL. As I said, we intend to maintain a continuing conversation with the general counsel about this sort of activity. We will of course be in continuous contact with members from the affected groups and from the staffs of the various committees that are working on this in order to reconcile the guidelines with the court decisions.

The CHAIRMAN. The Commission issued a memorandum last week outlining the steps that field officers should use in processing wage discrimination claims. It advises staff to counsel charging parties on the advantage of filing under both title VII and the Equal Pay Act.

It then tells its investigators that when they receive such charges, they should compile a wide ranging amount of data on the employer's work force, including a breakdown of the work force by sex, written detailed job descriptions, and "any documents which show the history of the employer's wage schedules." EEOC personnel are also asked to seek information on employer job evaluation plans along with the analysis of their "purpose and operation."

The memo indicates that the Commission is attempting to use these individual complaints as an excuse for launching widescale class action investigations to develop comparable worth cases. What do you intend to do about this memorandum?

Mr. BELL. I am not familiar with that memorandum, but I certainly intend to study it, and make an assessment of the requirements of the situation after I have completed the study.

The CHAIRMAN. It has been brought to my attention that both EEOC and OFCCP have sanctioned the practice of permitting unions to bar from their apprenticeship programs candidates who are 25 years or older. It is hard for me to believe that both the EEOC and the OFCCP would sanction such a practice since they are responsible for reassuring us of nondiscrimination on the basis of age.

Such a policy could also have the effect of reducing opportunities for women entering the work force after raising a family. Many women may want to enter nontraditional jobs such as those in the building trades.

What is your position on this ruling? May I ask you to review this issue and report back to the committee on your position fur-

ther and in detail within 30 days? However, could you give us your present position on this now?

Mr. BELL. I am concerned about the criticisms that you have listed there, but I would not be in a position to speak specifically about the individual complaints that have been listed. However, I will say that I will give this considerable amount of attention, and, in a reasonable amount of time, I will be able to speak definitively about the problems you have raised.

The CHAIRMAN. Some have raised questions about your personal finances. Would there be any comment you would care to make for the record with regard to these questions in order to put some of these questions to rest?

For instance, in the Wall Street Journal this morning, in one of those little paragraphs on the front page, it has a column: "Bearish on Bell. Proposed EEOC Chairman William Bell faces tough confirmation hearings today. They were put off 2 weeks ago because of rumored improper business deals. The rumors proved false, but some GOP Senate labor panel members still feel he is not qualified, an aide says."

I do not know who the aide is, but would you care to make any comments on this to put this to bed?

Mr. BELL. I am happy to inform the Senator that I am not guilty of any improper business deals that I am aware of. Certainly the intensiveness and the extent of the investigation conducted on my part would belie any conclusions that that would be the fact.

I certainly hope to demonstrate to all of the people who are interested in this area that I have the enthusiasm and the ability to conduct the affairs of the EEOC.

The CHAIRMAN. You say there is nothing?

Mr. BELL. Nothing at all, sir.

The CHAIRMAN. Mr. Bell, I think there will be some letters from the minority that we will order be placed in the record at a latter point without objection.

The CHAIRMAN. You have answered my questions. I appreciate having you here. I extend my best wishes for your success in this position because I think it really is an important position. It is controversial. I would like to see it be less controversial and more important to black people, other minorities, and women in our society than it has been in the past.

Maybe if we can work together, we can help create more opportunities to resolve these tremendous conflicts in our society concerning unemployment among blacks, minorities, and women, and treat the discriminatory conduct against minorities and women. If we work together, maybe we can resolve some of the problems.

We will certainly try to get this set up in the near future to move ahead. We will need your answers to the question submitted by Senator Heinz. We will keep the record open for at least 30 days to allow other Senators who may have questions to submit them to you so long as they do so within the next 10 or 15 days.

Thank you very much.

[The biographical sketch of Mr. Bell follows:]

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: Bell (LAST) William (FIRST) M. Kirby (OTHER)

Position to which nominated: Chairman E.E.C.C. Date of nomination:

Date of birth: 8 (DAY) 31 (MONTH) 26 (YEAR) Place of birth: Grand Rapids Michigan

Marital status: Married Full name of spouse: Patsy Ann Bell

Name and ages of children: N/A

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	University of Mich.	1946-48	B.A.	1948
	University of Mich.	1952-54	M.B.A.	1954

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

None

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
Omega Psi Phi		1944 – Present
Optimist	V. Pres	1981 – Present

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

1954-55	Great Lakes Life Insurance		Detroit Agent
1955-56	Chenault Real Estate Co.		Detroit Salesman
1956-57	Johnson Publishing Co.		Detroit Dist. Mgr.
1957-75	William M. Bell + Associates	PRES.	Detroit Investigative Consultant
1975-76	E.E.O.C.		Washington Consultant
1976-Present	Bolo Concepts, Inc	PRES.	Detroit Personnel Consultants

87-210 O - 82 - 4

Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

City of Detroit Charter Commission 1972

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

None

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

Precinct Delegate Detroit Republican
Issues Committee Mich. State Republican Organ.
District Chairman Reagan for President

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

YES

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

YES

3. Has a commitment been made to you for employment after you leave Federal service?

No

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

YES

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

NONE

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

NONE

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

None

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

Dissolve All Relationships

The CHAIRMAN. I would ask that without objection Senator East's statement in support of the nomination of William Bell to be Chairman of the Equal Employment Opportunity Commission be placed in the record at this point.

[The prepared statement of Senator East follows:]

STATEMENT BY SENATOR JOHN P. EAST
IN SUPPORT OF THE NOMINATION
OF
WILLIAM BELL
TO BE CHAIRMAN OF
THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. Chairman, on Friday, May 22, 1981, the Attorney General of the United States, William French Smith, articulated what I believe to be the basic approach of the present Administration to equal employment opportunity. Stated the Attorney General, "Our goal must always be genuinely color-blind state action. This means that race or color or national origin must, for purposes of government decision-making, ultimately become irrevelent."

Mr. Chairman, I fully endorse these comments by the Attorney General and ask that his speech of May 22, 1981, be included in the record after my statement. Title VII of the Civil Rights Act was passed to insure equality of opportunity, not equality of condition. I believe that President Reagan is committed to insuring equal opportunity for all Americans and to continue the government's efforts to erradicate intentional discrimination.

Policy makers at the Equal Employment Opportunity Commission have in the past operated out of an academic vacuum and have used their position to attempt to enforce their own views of social justice. Equality of condition imposed by government is the very definition of tyranny.

During my campaign, the complaint I heard over and over again concerned the insensitivity of federal regulatory agencies towards small businessmen and their enterprises. As a small businessman, Mr. Bell has first hand knowledge with the real-world impact of federal regulations on small business. I also believe that Mr. Bell embraces the position on equal opportunity endorsed by the Attorney General, and also laid out by the President's EEOC Transition Team. Mr. Bell also has substantial experience on an administrative level, gained during his tenure as a special assistant to the former Chairman of the EEOC.

For these reasons I will support Mr. Bell's nomination. I look forward to working with Mr. Bell in the future and offer my complete cooperation in his efforts at the EEOC.

The CHAIRMAN. We are happy to welcome you, Mr. Connolly as the President's nominee to be the top legal adviser of EEOC. With that, you will carry the important responsibility of providing the legal direction for an agency charged with eliminating discrimination.

I am pleased to see you come to this position with practical experience in litigating EEOC law. Your experience in defending employers gives a different breadth of experience to the Commission. I will be very interested in hearing your views as to how you will be able to take on this new role.

Let me assure you that I commend people like yourself who are willing to assume public office and operate under the pressure of serving the public. It is not easy, and it is certainly not easy to assume this particular position. We are happy to have you here. We hope you can limit your remarks to within 5 minutes so that we will have some time for questions.

STATEMENT OF MICHAEL J. CONNOLLY, TO BE GENERAL COUNSEL, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. CONNOLLY. Thank you, Mr. Chairman.

It is with a great deal of pleasure that I appear before you today. I have a short prepared statement and I am sure I can get through it within the 5-minute time allotment.

I would like to stress at the outset the importance I attach to vigorously prosecuting violations of title VII, the Equal Pay Act, and the Age Discrimination in Employment Act. I want to assure the committee that if I am confirmed as General Counsel of the Equal Employment Opportunity Commission I will forthrightly carry out the intent of Congress as articulated by these most important equal employment opportunity laws.

No stone will be left unturned in the battle to eradicate employment discrimination. Great strides have been made in the field of equal employment, and if I am confirmed, it will be my intention to continue the momentum that has been built up by previous General Counsels.

As an attorney, I have sworn to be an advocate of the position of my client. I can assure this committee that I will represent the EEOC as assiduously as I have represented any other client.

As a trial lawyer, I know the meaning of the word "competition." It would be my intention to make the EEOC's General Counsel's staff competitive with any outside law firm or corporate legal department. While I represented employers in the past as an attorney, I believed it was my No. 1 obligation to advise them when they were acting in an inappropriate manner. The knowledge thus obtained of how employers can operate is, in my opinion, crucial in understanding how to adopt meaningful programs to insure nondiscrimination.

In the end, however, I intend to help instill in the agency's legal staff a competitive spirit and an esprit de corps not heretofore seen in the Federal Government. I will be constantly vigilant as to ways to upgrade the morale, integrity, and objectivity of the attorneys who will work with me.

Additionally, I believe it is imperative that the General Counsel's office have an open door to members of this committee and its

staff. To the extent that this committee's members believe that there are ways to improve the operation of the EEOC, I personally would like to hear from them.

Also, I recognzie full well the importance of having diversified input from special interest groups in this country as well as business groups and professionals in the EEO field. Such groups as the women's, minority, age, and others will always be welcomed in my office.

More importantly, I want them to know whatever vigor and vitality I brought to representing employers in the past I will bring to the handling of issues important to them both today and in the future. In short, I will endeavor to represent them as they would represent themselves.

On the other hand, I am equally sensitive to the problems employers have faced in trying to conform with the multitude of statutes, regulations, and case law that has developed in the civil rights area. With my background, I would hope that the needless conflicts that have arisen in the past would be minimized.

There are other major challenges ahead for this agency that I will work with others to resolve. First, it is essential that the General Counsel's office develop an appropriate interfacing with the Chair of the EEOC and his fellow Commissioners.

Second, it is imperative that this office effectively coordinate with the Department of Labor and the Office of Federal Contracts Compliance programs so that both agencies develop common approaches to joint problems and thus reduce the needless and wasteful duplication of requirements placed upon employers in the past.

Third, I would also intend to work closely with the Department of Justice's civil rights division so that the full panoply of power the Federal Government has can be brought to bear on employers who are recalcitrant in their employment practices, that is, discrimination because of race, sex, color, religion, national origin, age, or handicap.

Fourth, my office will actively encourage the coordination between Federal and State agencies so as to reduce needless burdensome investigations and duplicative efforts.

I believe that one of the major challenges currently facing the Commission, and most particularly the Office of the General Counsel, is the need to develop administrative systems which will deliver competent and timely legal services at the same time that the case docket is rapidly expanding.

Recent figures from the Commission reflect that the number of cases authorized for prosecution has increased sharply. This office must hire and train the best attorneys that money can buy to insure the maximization of the limited resources we have available to us.

In sum, the EEOC needs to continue interagency cooperation. The Commission, however, also needs to further coordination by taking steps to insure against any overlap or duplication of enforcement efforts with other agencies, whether they be Federal or State.

Such increases in efficiency should, in my opinion, help to reduce the impact on the taxpayers of this country while carrying out the central missions of the agency, the clear mandate of Congress, and

the absolute commitment of the present administration to further equal employment opportunity.

I look forward to your support and would be pleased to serve as the next General Counsel of the EEOC.

Thank you.

The CHAIRMAN. Thank you, Mr. Connolly.

You have spent a great deal of time across the counsel table litigating cases against the EEOC. Without asking you to criticize particular individuals, I am wondering whether you could comment on the overall effectiveness of the General Counsel's office as a litigator, particularly in class actions?

Mr. CONNOLLY. I would suggest to the Senator that in the majority of my litigation experience, which would include in excess of over 50 actual civil rights trials and participation in about 10 class action lawsuits with one actually going to litigation for the full trial all the way up to certiorari where the petition was denied in the *Moe* v. *General Motors* case in Indianapolis, I have never been involved in an actual trial class action lawsuit with an EEOC attorney.

I have been involved with settlements involving the EEOC. Most of the litigation that takes place in the systemic field has been put on by the INC fund or the NAACP.

The CHAIRMAN. Where do you see the need, if any, for improvement in the General Counsel's litigating capacity?

Mr. CONNOLLY. First of all, I think they should start to litigate. I met with three of the head attorneys at the National Bar Association in Detroit. I asked the question: How many cases did your office litigate last year?

After a pregnant pause, one attorney said zero. Another attorney said zero, and one attorney said two. That is, only two cases for three entire offices have gone to fruition. I would submit to you that I personally have tried over 50 cases myself in the last 4 years.

The CHAIRMAN. Within the past few years, several companies, especially universities, found themselves subject to duplicate enforcement proceedings based on the same claim of discriminatory conduct. For example, at any given time a university might find itself subject to legal actions brought under title VII of the Civil Rights Act, title IX of the Education Act, sections 503 and 504 of the Rehabilitation Act, and Executive Order 11246 to remedy the same or a closely related instance of discrimination.

What steps will you take to insure that the Government's enforcement efforts are more closely coordinated?

Mr. CONNOLLY. In that vein, I have had similar circumstances in representing my clients. I would seek to coordinate with the designated 706 agency, the EEOC, and the Department of Labor nonduplicative efforts, especially when a plaintiff's attorney is involved. Then you have a fourth party coming in.

I have seen plaintiff's attorneys use the EEOC for discovery purposes, use the OFCCP for discovery purposes, and the duplicative effort must stop. If the OFCCP is conducting an investigation and is seeking discovery, I think the general counsel's office has the authority to work out a coordinating effort whereby the em-

87-210 O - 82 - 5

ployer is not forced to duplicate its efforts in various discovery subpenas.

The CHAIRMAN. Mr. Connolly, I have to go and vote in a minute and I have three other witnesses that I would like to finish before I go. Therefore, what I am going to do is submit the remaining questions—I have a large number of them—to you in writing. I would appreciate it if you would send back your answers as soon as possible.

Mr. CONNOLLY. Yes, sir, thank you very much.

The CHAIRMAN. Thank you.

[The prepared statement and biographical sketch of Mr. Connolly follows:]

STATEMENT OF MICHAEL J. CONNOLLY

NOMINEE FOR GENERAL COUNSEL

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

GOOD AFTERNOON MR. CHAIRMAN AND OTHER MEMBERS OF THE COMMITTEE.

IT IS WITH A GREAT DEAL OF PLEASURE THAT I APPEAR BEFORE YOU TODAY. I HAVE A SHORT PREPARED STATEMENT BUT WOULD BE GLAD TO ANSWER ANY QUESTIONS AT THIS TIME THAT YOU MAY HAVE MR. CHAIRMAN.

I WOULD LIKE TO STRESS AT THE OUTSET THE IMPORTANCE I ATTACH TO VIGOROUSLY PROSECUTING VIOLATIONS OF TITLE VII, THE EQUAL PAY ACT, AND THE AGE DISCRIMINATION IN EMPLOYMENT ACT. I WANT TO ASSURE THE COMMITTEE THAT IF I AM CONFIRMED AS GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION THAT I WILL FORTHRIGHTLY CARRY OUT THE INTENT OF CONGRESS AS ARTICULATED BY THE MOST IMPORTANT EQUAL EMPLOYMENT OPPORTUNITY LAWS.

NO STONE WILL BE LEFT UNTURNED IN THE BATTLE TO ERADICATE EMPLOYMENT DISCRIMINATION. GREAT STRIDES HAVE BEEN MADE IN THE FIELD OF EQUAL EMPLOYMENT AND IF I AM CONFIRMED IT WILL BE MY INTENTION TO CONTINUE THE MOMENTUM THAT HAS BEEN BUILT UP BY PREVIOUS GENERAL COUNSELS.

AS AN ATTORNEY, I HAVE SWORN TO BE AN ADVOCATE OF THE POSITION OF MY CLIENT. I CAN ASSURE THIS COMMITTEE THAT I WILL REPRESENT THE EEOC AS ASSIDUOUSLY AS I HAVE REPRESENTED ANY OTHER CLIENT.

AS A TRIAL LAWYER I KNOW THE MEANING OF THE WORD-"COMPETITION." IT WOULD BE MY INTENTION TO MAKE THE EEOC'S GENERAL COUNSEL STAFF COMPETITIVE WITH ANY OUTSIDE LAW FIRM OR CORPORATE LEGAL DEPARTMENT. WHILE I REPRESENTED EMPLOYERS IN THE PAST AS AN ATTORNEY I BELIEVED IT WAS MY NUMBER ONE OBLIGATION TO ADVISE THEM WHEN THEY WERE ACTING IN AN INAPPROPRIATE MANNER. THE KNOWLEDGE THUS OBTAINED OF HOW EMPLOYERS CAN OPERATE IS IN MY OPINION CRUCIAL IN UNDERSTANDING HOW TO ADOPT MEANINGFUL PROGRAMS TO ENSURE NON-DISCRIMINATION.

IN THE END HOWEVER, I INTEND TO HELP INSTILL THE AGENCY'S LEGAL STAFF A COMPETITIVE SPIRIT AND AN ESPRIT DE CORPS NOT HERETO-FORE SEEN IN THE FEDERAL GOVERNMENT. I WILL BE CONSTANTLY VIGILANT AS TO WAYS TO UPGRADE THE MORALE, INTEGRITY AND OBJECTIVITY OF THE ATTORNEYS WHO WILL WORK WITH ME.

ADDITIONALLY, I BELIEVE IT IS IMPERATIVE THAT THE GENERAL COUNSEL'S OFFICE HAVE AN OPEN DOOR TO MEMBERS OF THIS COMMITTEE AND ITS STAFF. TO THE EXTENT THAT THIS COMMITTEE'S MEMBERS BELIEVE THAT THERE ARE WAYS TO IMPROVE THE OPERATION OF THE EEOC, I PERSONALLY WOULD LIKE TO HEAR FROM THEM.

ALSO, I RECOGNIZE FULL WELL THE IMPORTANCE OF HAVING DIVERSIFIED INPUT FROM SPECIAL INTEREST GROUPS IN THIS COUNTRY, AS WELL AS BUSINESS GROUPS AND PROFESSIONALS IN THE EEO FIELD. SUCH GROUPS AS THE WOMEN'S, MINORITY, AGE, AND OTHERS WILL ALWAYS BE WELCOMED IN MY OFFICE. MORE IMPORTANTLY, I WANT THEM TO KNOW THAT WHATEVER VIGOR AND VITALITY I BROUGHT TO REPRESENTING EMPLOYERS IN THE PAST I WILL BRING TO THE HANDLING OF ISSUES IMPORTANT TO THEM BOTH TODAY AND IN THE FUTURE. IN SHORT, I WILL ENDEAVOR TO REPRESENT THEM AS THEY WOULD REPRESENT THEMSELVES. ON THE OTHER HAND I AM EQUALLY SENSITIVE TO THE PROBLEMS EMPLOYERS HAVE FACED IN TRYING TO CONFORM WITH THE MULTITUDE OF STATUTES, REGULATIONS AND CASE LAW THAT HAS DEVELOPED IN THE CIVIL RIGHTS AREA. WITH MY BACKGROUND I WOULD HOPE THAT THE NEEDLESS CONFLICTS THAT HAVE ARISEN IN THE PAST WOULD BE MINIMIZED.

THERE ARE OTHER MAJOR CHALLENGES AHEAD FOR THIS AGENCY THAT I WILL WORK WITH OTHERS TO RESOLVE.

FIRST, IT IS ESSENTIAL THAT THE GENERAL COUNSEL'S OFFICE DEVELOP AN APPROPRIATE INTERFACING WITH THE CHAIR OF THE EEOC AND HIS FELLOW COMMISSIONERS.

SECOND, IT IS IMPERATIVE THAT THIS OFFICE EFFECTIVELY COORDINATE WITH THE DEPARTMENT OF LABOR AND THE OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS SO THAT BOTH AGENCIES DEVELOP COMMON APPROACHES TO JOINT PROBLEMS AND THUS REDUCE THE NEEDLESS AND WASTEFUL DUPLICATION OF REQUIREMENTS PLACED UPON EMPLOYERS IN THE PAST.

THIRD, I WOULD ALSO INTEND TO WORK CLOSELY WITH THE DEPARTMENT OF JUSTICE'S CIVIL RIGHTS DIVISION SO THAT THE FULL PANOPLY OF POWER THE FEDERAL GOVERNMENT HAS CAN BE BROUGHT TO BEAR ON EMPLOYERS WHO ARE RECALCITRANT IN THEIR EMPLOYMENT PRACTICES -- I.E., DISCRIMINATION BECAUSE OF RACE, SEX, COLOR, RELIGION, NATIONAL ORIGIN, AGE OR HANDICAP.

FOURTH, MY OFFICE WILL ACTIVELY ENCOURAGE THE COORDINATION BETWEEN FEDERAL AND STATE AGENCIES SO AS TO REDUCE NEEDLESS, BURDENSOME INVESTIGATIONS AND DUPLICATIVE EFFORTS.

I BELIEVE THAT ONE OF THE MAJOR CHALLENGES CURRENTLY FACING THE COMMISSION, AND MOST PARTICULARLY THE OFFICE OF THE GENERAL COUNSEL, IS THE NEED TO DEVELOP ADMINISTRATIVE SYSTEMS WHICH WILL DELIVER COMPETENT AND TIMELY LEGAL SERVICES AT THE SAME TIME THAT THE CASE DOCKET IS RAPIDLY EXPANDING. RECENT FIGURES FROM THE COMMISSION REFLECT THAT THE NUMBER OF CASES AUTHORIZED FOR PROSECUTION HAS INCREASED SHARPLY. THIS OFFICE MUST HIRE AND TRAIN THE BEST ATTORNEYS THAT MONEY CAN BUY TO ENSURE THE MAXIMIZATION OF THE LIMITED RESOURCES WE HAVE AVAILABLE TO US.

IN SUM, THE EEOC NEEDS TO CONTINUE INTER-AGENCY COOPERATION. THE COMMISSION, HOWEVER, ALSO NEEDS TO FURTHER COOPERATION BY TAKING STEPS TO INSURE AGAINST ANY OVERLAP OR DUPLICATION OF ENFORCEMENT EFFORTS WITH OTHER AGENCIES, WHETHER THEY BE FEDERAL OR STATE. SUCH

INCREASES IN EFFICIENCY SHOULD, IN MY OPINION, HELP TO REDUCE THE IMPACT ON THE TAXPAYERS OF THIS COUNTRY WHILE CARRYING OUT THE CENTRAL MISSIONS OF THE AGENCY, THE CLEAR MANDATE OF CONGRESS, AND THE ABSOLUTE COMMITTMENT OF THE PRESENT ADMINISTRATION TO FURTHER EQUAL EMPLOYMENT OPPORTUNITY.

I LOOK FORWARD TO YOUR SUPPORT AND WOULD BE PLEASED TO SERVE AS THE NEXT GENERAL COUNSEL OF THE EEOC.

THANK YOU VERY MUCH,

MICHAEL J. CONNOLLY

DATED: October 5, 1981
Washington, D.C.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: Connolly (LAST) Michael (FIRST) Joseph (OTHER)

Position to which nominated: General Counsel EEOC Date of nomination:

Date of birth: 26 (DAY) 3 (MONTH) 49 (YEAR) Place of birth: Detroit, Michigan

Marital status: single Full name of spouse: none

Name and ages of children: none

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Wayne State University	1975-1977	LLM	1977
Univ. of Mississippi	1971-1973	JD	1973
Regis College	1967-1971	B.A.	1971
Austin High School	1963-1967	H.S. Diploma	1967

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

American Jurisprudence Award for labor law

W. Kirby Bowling Scholarship for Labor Law - Univ. of Mississippi.

Dean's List freshman, sophomore, junior and senior years.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
Boys and Girls Clubs	Corporate	Present
of America-Metro Detroit	Member	
Phi Kappa Psi		Alumnus
American Bar Association		Present
Michigan and Mississippi		
Bar Associations		Present

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

1977 to Present: Personnel and Labor Counsel - General Motors Corporation, 3044 W. Grand Boulevard, Detroit, Michigan.

1973 - 1977: Berry, Moorman, King, Lott & Cook; Labor Counsel, Detroit, Michigan (2600 Detroit Bank & Trust Building)

Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

A Practical Guide To Equal Employment Opportunity, 2 vol., published by New York Law Journal Seminars-Press, 1979.

Work Stoppages and Union Responsibility, published by Practising Law Institute, New York City, 1977.

"Equal Employment Opportunities: Case Law Overview," Mercer Law Review, Walter F. George School of Law, Volume 29, Spring 1978.

"Qualifying Title VII Class Action Discrimination Suits: A Defendant's Perspective," St. Mary's Law Journal, Volume 9 Number 2, 1977.

"Employer's Rights Relative to Sympathy Strikes," Duquesne Law Review, Volume 14, Number 2, Winter 1975-76.

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

Worked on Reagan/Bush campaign.

Worked on John Lauve's campaign in 14th District, Michigan.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes.

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

Unknown at present time.

3. Has a commitment been made to you for employment after you leave Federal service?

No.

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

Yes.

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None.

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

Recuse self from any matter involving conflict.

The CHAIRMAN. We will call the final three witnesses today: David Montoya, president, National Image, Simpsonville, Md.; Ellen Cassidy, Working Women, Washington, D.C.; and Maudine Cooper, Leadership Conference on Civil Rights in Washington, D.C.

If all three of you would come and take seats at the witness table, I would appreciate it. I do not have a lot of time because I have to go over and vote, and I have to meet with the leadership immediately thereafter. I also have to talk to the White House.

What I would like to do is make the record as best I can. I would like to have you start, and if I have to leave, then I am going to ask Mr. Florez of my staff to take the remaining testimony so that we can make this record and get your feelings on the record today.

If you could limit your remarks, it might save us some time, but I do not want to cut you short. However, please try to keep your statements within 5 minutes.

Mr. Montoya, we will start with you.

STATEMENT OF DAVID MONTOYA, PRESIDENT, NATIONAL IMAGE, WASHINGTON, D.C.

Mr. MONTOYA. Thank you, Mr. Chairman, for once again demonstrating to our community, the Hispanic community, your keen interest on issues and concerns affecting Hispanics.

We would also like to thank your staff for the excellent cooperation they have provided to us in the past. We are looking forward to working with them in the future.

Our organization, National Image, has been keenly interested in the opportunities provided by the Federal and private sectors for Hispanics. Our interest is focused not only on the number of jobs available to Hispanics, but we are also interested in the quality of those jobs, opportunities for training and upward mobility, and movement of Hispanics into policymaking positions.

EEOC itself must serve as a model for the Federal Government and the private sector, not merely as a policeman. Although Hispanics represent 10 percent of the EEOC work force, we note that most of these employees are relegated to the lower levels of employment. Those few Hispanics assigned to leadership positions are quickly disillusioned by the lack of emphasis or effort to deal with the concerns of Hispanics. These individuals either end up leaving the agency or are placed in positions of little or no consequence.

It is our feeling that EEOC, properly guided, could have a significant impact on the overall socioeconomic condition of the Hispanic community both inside and outside of Government. Past leadership within EEOC has favored not taking this role seriously. It is our hope that EEOC under Mr. Bell's leadership will in fact take this responsibility and implement it to the fullest extent possible.

We look forward to a relationship and positive environment in which views can be exchanged and concrete advances can be made to deal with employment issues affecting the Hispanic community. We will reserve specific suggestions for these meetings.

Hispanics are tired of tokenism and of waiting. Like our black brothers and sisters, we want to be respected and given a fair opportunity. There is much to be done. We in National Image pledge ourselves to work with this new leadership so long as they deal with us fairly.

Thank you very much for this opportunity to express our views.
The CHAIRMAN. Thank you. We appreciate it.
Ellen Cassidy?

STATEMENT OF ELLEN CASSIDY, PROGRAM DIRECTOR, WORKING WOMEN, WASHINGTON, D.C.

Ms. CASSIDY. Mr. Chairman, I am pleased to have the opportunity to appear before you today on behalf of Working Women, a national association of office workers, to express the concern of our membership about the nomination of William Bell as chairman of the EEOC.

The CHAIRMAN. May I interrupt you? I hope you will understand, but I really do need to run for that vote. I have just enough time to get there.

I particularly feel badly about you and Ms. Cooper, but it is important that we make this record. By the time I get over there, even if I could come back, you would be through. If you will make the record, we will read it. I will have Mr. Florez here to continue to take the record. If he has any questions he would care to ask, I would like him to ask them. I have no questions. I am just interested in having your statements placed in the record.

Thank you.

Ms. CASSIDY. I am pleased to have the opportunity to appear before you today on behalf of Working Women, a national association of office workers, to express the concern of our membership about the nomination of William Bell as Chairman of the EEOC and Michael Connolly as its General Counsel.

As is obvious to even the most casual observers, the EEOC has major responsibility for handling a great many of the problems of discrimination in the country. Working Women has been monitoring the activities of the EEOC for the last 5 years. We know that the Chair must not only be concerned about what is taking place in the national headquarters in Washington but must also be aware of the operations of the regional and local offices.

Working Women is most concerned that the local offices are run well because we have local affiliates in 12 cities throughout the country. If the national Chair does not possess the required skills to run an agency as complex as the EEOC, we cannot feel confident that the employment rights of our members will be protected.

It is our understanding that Mr. Bell's managerial experience stems from the ownership of a small business. Though we do not question his ability to operate his own business effectively, we do wonder at his competence to take over the leadership of the EEOC. In fairness both to Mr. Bell and to the individuals whose rights are to be protected by the EEOC, we must express reservations about his nomination and opposition to his nomination on those grounds.

We believe that Mr. Bell would earnestly do the best job that he is capable of doing. Yet we do not feel it is fair to place someone in the position of Chair of an agency still experiencing growing pains when he does not appear to have the experience that would lead to the necessary administrative and legal skills.

Working Women is concerned that the Chair be someone who is familiar with the issues experienced by the agency on a day-to-day basis. Nothing in Mr. Bell's employment or community outreach

background suggests that he has been actively involved in the civil rights issues confronting our Nation today.

We would like to feel secure that the Chair is committed to carrying out the EEOC's mission of eliminating discrimination in the most aggressive fashion possible. We would like to see a commitment from the Chair to continue the present work to eliminate the backlog.

We would also like to know that the Chair believes in systemic investigations and litigation when necessary. Handling discrimination on a case-by-case basis is not adequate to solve the problem.

Statements attributed to Mr. Bell suggest that he believes the major form of discrimination in the country today is individual. Working Women knows that discrimination occurs on a widespread systemic and class basis. Our members are in the lowest paid and most deadend jobs in the workplace. In our experience, this is not so because our members are less educated or less experienced than their white male bosses, but instead because systemic discrimination is still alive and well.

We believe that the Chair of the EEOC must be a strong civil rights advocate and activist who will champion the cause of the victim of discrimination. After all, it was for this victim that the EEOC was created.

As a black in this country, Mr. Bell has experienced discrimination. From our point of view, this is a plus. He at least would relate to the problems of the victim. However, we feel that his lack of administrative and legal experience, and lack of background in the area of civil rights policy, may render him less than effective.

Finally, we hope that Mr. Bell will take the initiative to more thoroughly clear up questions raised in the press about his financial status.

We have some similar concerns about the nomination of Michael Connolly for general counsel of the EEOC. We do not believe that Mr. Connolly has the administrative experience that will be needed to manage a staff of attorneys, make major policy decisions, and handle a sizeable budget.

In addition, we feel that Mr. Connolly's position with General Motors constitutes a conflict of interest because GM is the target of a current EEOC systemic investigation and because GM is involved in litigation in which the company takes a position favoring an extremely narrow interpretation of EEOC's authorizing legislation, title VII of the Civil Rights Act.

We hope that the factors we have discussed here will be considered in the confirmation hearings. If Mr. Bell and Mr. Connolly are ultimately confirmed, Working Women stands ready to assist them and the EEOC in whatever way we can.

Thank you.

Mr. FLOREZ. Thank you, Ms. Cassidy.

[The prepared statement of Ms. Cassidy follows:]

Working Women
A NATIONAL ASSOCIATION OF OFFICE WORKERS

CAMPAIGN TO DEFEND
WORKING WOMEN'S RIGHTS

Testimony of Ellen Cassedy, Program Director, before

the Senate Labor and Human Resources Committee

Confirmation Hearings of William Bell as EEOC Chair

October 6, 1981

CAMPAIGN TO DEFEND
WORKING WOMEN'S RIGHTS

Working Women
A NATIONAL ASSOCIATION OF OFFICE WORKERS

Mr. Chairman and Members of the Committee:

I am pleased to have the opportunity to appear before you today on behalf of Working Women, a national association of office workers, to express the concern of our membership about the nomination of William Bell as Chairman of the EEOC.

On February 23, 1978, President Carter announced to Congress a plan to consolidate the government's equal employment enforcement agencies. After the consolidation which was called Reorganization Plan No. 1 of 1978, instead of 18 enforcement agencies, there were only three -- the Equal Employment Opportunity Commission, the Department of Justice, and the Department of Labor.

Under Reorganization Plan No. 1, the EEOC was given responsibility for enforcing three statutes: Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, and the Age Discrimination in Employment Act of 1967. The EEOC also is also charged with handling all the discrimination complaints of federal employees.

As is obvious to even the most casual observers, the agency handles a great many of the problems of discrimination in the country. This is an enormous responsibility because in the experience of the members of Working Women discrimination still exists. Because Working Women realize that discrimination is a major problem in this country, we feel it essential that the chairperson of the EEOC be someone who possesses strong administrative and legal qualities. We are not convinced that Mr. Bell possesses the qualities required of the chair of the EEOC.

Working Women has been monitoring the activities of the EEOC for the last five years and knows that the chair must have adequate administrative abilities to deal with a large beaureaucracy like the EEOC. Because there are several tiers to the agency, the chair must not only be concerned about what is taking place in the national headquarters in Washington, but he must be aware of the workings in the regional and local offices as well.

Working Women is most concerned that the local offices are run well because we have local affiliates in several cities throughout the country. If the national chair does not possess the required skills to run an agency as complex as the EEOC, we cannot feel confident that the employment rights of our members will be protected.

It is our understanding that Mr. Bell's managerial experience stems from the ownership of a small business. Though Working Women does not question Mr. Bell's ability to operate his own business effectively, we do wonder at his competence to take over the leadership of the EEOC. In all fairness to Mr. Bell and the individuals whose rights are to be protected by the EEOC, we must express reservations about his nomination on those grounds.

Working Women believes that Mr. Bell would earnestly do the best job that he is capable of doing, yet we do not feel that it is fair to place someone in the position of chair of an agency still experiencing growing pains when he himself does not appear to have the experience that would lead to the necessary administrative skills.

Working Women is concerned that the chair be someone who is familiar with the issues faced by the agency on a day-to-day basis. Nothing in Mr. Bell's employment or community outreach background suggests that he has been actively in the civil rights issues confronting the people in America today.

Because we are a membership organization committed to eliminating employment discrimination, Working Women would like to feel secure that the chair is someone who is also committed to carrying out the EEOC's mission of eliminating discrimination in the nation in the most aggressive fashion possible. Working Women would like to see a commitment from the chair to continue the present work at the EEOC to eliminate the backlog. Working Women would also like to feel that the chair is someone who believes in systemic investigations and litigation when necessary. We believe that systemic investigations must be continued because this is the most efficient approach to a widespresd social problem. Handling discrimination on a case by case basis is not adequate to solve the problem.

Working Women knows that the only way to eliminate discrimination in this country is through strong and effective governmental enforcement agencies. We are not convinced that Mr. Bell understands the gravity of the problem since statements attributed to him suggest that he believes that the only form of discrimination that exists in the country today is individual. Working Women knows that discrimination occurs on a widespread basis because our members are in the lowest-paid, most dead-end jobs in the workplace. In the experience of Working Women, this has not come about because our members are less educated or less experienced than their white male bosses, but because business goes on as usual and because discrimination is still alive.

Finally, Working Women believes that the chair of the EEOC must be a strong civil rights advocate and activist who will champion the cause of the discriminatee. After all, it was for the victim that the EEOC came into existence.

Working Women knows that as a black in this country Mr. Bell has experienced discrimination. From our point of view, this is a plus. He at least would relate to the problems of the victims. But we further feel that Mr. Bell's lack of administrative experience and lack of knowledge in the area of civil rights policy may render him less than effective as the chair of the agency.

We fully hope that the factors we have discussed here will be considered in these confirmation hearings. If Mr. Bell is ultimately confirmed, Working Women stands ready to assist him and the EEOC in whatever way we can.

Thank you.

Mr. FLOREZ. Maudine Cooper of the Leadership Conference on Civil Rights?

STATEMENT OF MAUDINE COOPER VICE PRESIDENT, WASHINGTON OPERATIONS OF THE NATIONAL URBAN LEAGUE, ON BEHALF OF LEADERSHIP CONFERENCE ON CIVIL RIGHTS, ACCOMPANIED BY RALPH NEAS, EXECUTIVE DIRECTOR, LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Ms. COOPER. I am Maudine Cooper, vice president for Washington Operations of the National Urban League. Accompanying me here this afternoon is Ralph Neas, executive director of the Leadership Conference on Civil Rights.

First of all, I want to thank the committee for holding these hearings. I wish we did indeed have an opportunity for much more dialog and much more input from not only the groups represented here but other groups as well.

The Leadership Conference, as you probably know, represents about 153 separate organizations from a number of backgrounds: Labor, religious groups, ethnic groups, women's groups, and so on.

These groups have banded together because of our deep belief that the elimination of discrimination in all of its guises is a compelling national priority. We would hope that this committee would continue to reflect that national priority as it continues its deliberations during the period for which the record remains open.

The effectiveness of the Conference has been demonstrated particularly through its successful efforts to pass the very civil rights laws that the EEOC enforces. The Leadership Conference remains vigilant to insure that the words and the intent of these laws are given full force and effect. The Conference continues to find impetus for its work because, despite the enactment of a number of laws, the plain evidence is that discrimination is still a fact of life for many citizens.

For these reasons, the Leadership Conference believes it is critical that Federal civil rights enforcement agencies be led and staffed by the most competent, most experienced, and most dedicated persons available.

We are concerned that the absence of major management experience and a legal background in Mr. Bell's career and record may render him unable to provide the kind of leadership necessary to an agency which is charged with safeguarding the rights of millions of Americans.

We believe that any nominee to head the EEOC should be conversant with this very complicated body of case law, law which is highly technical and indeed subtle. That person should simultaneously be able to manage the complex management systems, multiple statutory authorities, and far-flung field oeprations that characterize the newly reformed EEOC.

In order to sustain momentum toward eradication of employment discrimination, the agency's leadership and staff must be able to go forward on the path charted for it by the civil rights acts of the 1960's, by the courts, and by those who have worked so diligently to bring about these reforms in the EEOC.

We are not sanguine that Mr. Bell's legal and management background prepares him for this important task. Until this time, Republican and Democratic Presidents alike have appointed distinguished lawyers to Chair the Commission. The one nonlawyer appointed had an extensive management background as a highly placed corporate executive. Even so, because no precedents or models existed for mass processing of complex cases, the Commission experienced difficulty.

We are sure you can understand our concern, therefore, when a nonlawyer with no management experience in running an organization of any size is nominated to Chair the Commission at a time when it administers not one but three complicated statutes. We would be less than honest if we did not indicate that we believe there are individuals more qualified to lead the Commission.

Despite our reservations about the nominee, if he is confirmed, we, like other witnesses, will stand ready to assist him to insure that the EEOC's progress is steady and sure. We stand ready to assist the agency in securing adequate staff, resources, and authority to discharge its mission.

We stand ready to be convinced that this change in leadership does not represent a change in the positive momentum which has characterized the agency in recent years. Our constituents and our member organizations take this responsibility and the Commission especially seriously at this time.

If the nominee proves dedicated to the eradication of these problems and to continuing strong enforcement unabated, he will win our support as a result of his actions. Meanwhile, we feel we must undertake to monitor the Commission closely at this time to make sure there is no erosion in its management and its commitment to the goals of the statutes it administers.

If Mr. Bell is confirmed, we will seek an early meeting with him to assure him both of our cooperation and of our vigilance. We sincerely hope that the nominee and this committee share our serious and longstanding concern, and that we can all continue to work together fruitfully in the days ahead.

Finally, I would be remiss if I did not take this opportunity to voice similar concerns about the other nomination which is the

subject of this hearing; that is the nomination of Michael Connolly for general counsel of the EEOC.

We have several concerns about him which have been articulated by the previous witness. As to the nomination of Mr. Connolly, if he is indeed confirmed, we make the same commitment to him.

I would like to ask that the entire statement be submitted for the record. I thank you for your attention.

Mr. FLOREZ. It will be done. Thank you.

[The prepared statement of Ms. Cooper follows:]

Testimony of Leadership Conference on Civil Rights at
Confirmation Hearing of William E. Bell to be Chair of the EEOC

Presented by Maudine Cooper

I am Maudine Cooper, Vice President for Washington Operations of the National Urban League. On behalf of The Leadership Conference on Civil Rights, I wish to thank the Committee for this opportunity to testify on the nomination pending before you of William E. Bell to be Chair of the Equal Employment Opportunity Commission (EEOC). The Leadership Conference is a unique institution in this country whose views and concerns have enjoyed wide respect in this body and in the House of Representatives. The Conference is an unusually broad coalition of 153 separate oranizations representing Protestant, Catholic and Jewish religious groups, public interest groups, labor, women, Blacks, Hispanics, Asians, Native Americans, handicapped people. Family and other groups who have banded together because of their deep belief that the elimination of discrimination in all of its guises is a compelling national priority. The effectiveness of the Conference has been demonstrated particularly through its successful efforts to pass the very civil rights laws that the EEOC enforces. The Leadership Conference remains vigilant, to ensure that the words and the intents of these laws are given full effect. And the Conference continues to find impetus for its work because, despite the enactment of statutes like the Civil Rights Act of 1964; the Voting Rights Act of 1965; the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 and other important laws, the plain evidence is that discrimination is still a fact of life for many citizens is unavoidable.

For these reasons, the Leadership Conference believes it critical that Federal civil rights enforcement agencies be led and staffed by the most competent, most experienced and most dedicated persons available. We are concerned that the absence of major management experience and legal background in Mr. Bell's career and record may render him unable to provide the kind of leadership necessary to an agency which is charged with safeguarding the rights of millions of Americans.

The EEOC has only in the past few years emerged from a long period of inefficiency, characterized by huge backlogged case loads, failure to deliver timely and efficient services to complainants and respondents, inadequate attention to systemic discrimination, fitful relationships with state and local anti-discrimination agencies; and failure to use its expertise to provide policy guidance to employers, charging parties, and the courts.

In 1977, administrative and procedural reforms were introduced at EEOC which have become models for the entire Federal establishment. Using a comprehensive reorganization plan for reform of the agency, the Commission successfully reversed a decade of unsatisfactory performance. Elements of this plan included:

- The introduction of a new Rapid Charge Processing System, with emphasis on professionalized intake procedures, face-to-face fact-finding and settlement early in the process;
- A separate Backlog Charge Processing System to give systematic and priority attention to backlogged cases;
- The integration of litigation, investigation and other essential field functions into a direct service, stream-lined district office structure to replace a costly and cumbersome field structure consisting of separate offices for investigation, administration and litigation;
- Establishment of a separate program to deal with systemic patterns of discrimination affecting entire groups, which encourages voluntary compliance by targeting first those employers least in compliance with the law;
- Introduction of new financial and management systems and the establishment of strict management accountability through a carefully monitored system of Management-by-Objective (MBO);
- A New Office of Policy Implementation to facilitate development of policy with the full participation of all commissioners in order to encourage voluntary compliance;
- A national training program and standards to ensure that staff is able to effectively administer the new systems.

These reforms have produced concrete and measurable results. When the Reagan Administration came into office, the old backlog of 100,000 cases had been

reduced by more than two-thirds; the time to process an individual case had been reduced from two years to four months; the remedy level had been increased by three and one half times; and a new program for bringing class action cases against systemic discrimination had been built.

These improvements have been applauded by a broad spectrum, leading to an untraditional alliance of support of the reformed Commission that has included rights groups, labor, and business. This degree of success and heightened support can best be guaged by the fact that the President and the Congress were convinced, a little more than a year after the agency reforms were introduced, to give the EEOC more enforcement responsibility and to make it the lead agency for Federal equal employment enforcement programs through the Civil Rights Reorganization Plan No. 1, which passed both houses overwhelmingly. This plan, too, enjoyed broad support from the Leadership Conference and business groups, including many who had been severely critical of EEOC's performance before the introduction of the reformed procedures and systems. Of particular importance to the victims of discrimination, these reforms enabled the EEOC to project, for the first time, a back-log-free agency by FY 1982.

This momentum has been a source of hope and inspiration to many minorities, women, handicapped and older workers in this country who had grown increasingly cynical about the government's interest in, and ability to resolve, their legitimate grievances. Of course, these developments were heartening to advocates, like the Leadership Conference, who had long sought constructive and effective Federal leadership in the pursuit of equal opportunity. And the increased momentum, the reforms, and the greater efficiency were hailed by employers who must comply with the law.

Yet, we are concerned that this positive momentum may be compromised by current developments. Already, severe reductions in funding compromise the EEOC's

reforms and ability to deliver on the great promise of the civil rights laws it administers. Already, we see signs that the EEOC is in danger from some who would weaken and disperse its protection. But we place the highest priority on retaining the Commission in its present form with its present powers. And we believe the body of law it administers guaranteeing broad and strong protection to the victims of discrimination will not easily be turned around. The courts, including the Supreme Court of the United States, have fleshed out the meaning of Title VII in thousands of strong precedents. The EEOC and the federal government are bound to follow this great body of law barring discrimination.

Any nominee to head the EEOC should be conversant with this body of case law, which is today highly technical and subtle, and should simultaneously be able to manage the complex management systems, multiple statutory authorities, and far-flung field operations that characterize the reformed EEOC. In order to sustain momentum toward eradication of employment discrimination, the agency's leadership and staff must be able to go forward on the path charted for it by the civil rights acts of the 1960's, by the courts, and by the reforms the Commission has implemented.

We are not sanguine that Mr. Bell's legal and management background prepares him for these important tasks. Until now, Republican and Democratic presidents alike have appointed distinguished lawyers to chair the Commission; the one non-lawyer appointed had an extensive management background as a highly placed corporate executive. Even so, because no precedents or models existed for mass processing of complex cases, the Commission experienced difficulty. We are sure you can understand our concern, therefore, when a non-lawyer with no management experience running an organization of any size is nominated to chair the Commission at a time when it administers not one but three complicated statutes. We would be less than honest if we did not indicate that we believe there are individuals more qualified to lead the Commission.

Despite our reservations about the nominee, if he is confirmed we stand ready to assist him to ensure that the EEOC's progress is steady and sure. We stand ready to assist the agency in securing adequate staff, resources and authority to discharge its mission. We stand ready to be convinced that this change in leadership does not represent a change in the positive momentum which has characterized the agency in recent years. Our constitutents and our member organizations take this responsibility and the Commission especially seriously at this time.

For black unemployment is 15.3%, more than twice that of whites, and minority youth unemployment is especially grave, exceeding 50%, according to the most recent government statistics. The income gap between minorities and whites is widening not closing, and the ravages of inflation are felt most deeply by those who have too little. Women earn 59 cents for every dollar earned by men, and the pink-collar ghettos of our labor force persist, confining talented women to low paying dead-end jobs with little career mobility and loss of esteem. Much of the progress of minorities and women up the ladder into better paying jobs remains to be accomplished because anti-discrimination remedies have only become equal to the task in case precedents set by the courts in recent years.

If the nominee proves dedicated to the eradication of these problems and to continuing strong enforcement unabated, he will win our support as a result of his actions. Meanwhile, we feel we must undertake to monitor the Commission closely at this time to make sure that there is no erosion in its management and its commitment to the goals of the statutes it administers. If Mr. Bell is nominated, we will seek an early meeting with him to assure him both of our cooperation and of our vigilance. We sincerely hope that the nominee and this Committee share our serious and longstanding concern and that we can all continue to work together fruitfully in the days ahead.

Addendum to Leadership Conference
Testimony on EEOC Nominations -- October 6, 1981

Finally, I would be remiss if I did not take this opportunity to voice similar concerns about the other nomination which is the subject of this hearing -- that is, the nomination of Michael Connolly for General Counsel of the EEOC. We have three major reservations about Mr. Connolly's qualifications for this most important position in the Commission.

First, although Mr. Connolly has experience in employment discrimination law, he will come to the job of chief lawyer for the EEOC without substantial experience in managing a large and complex litigation program.

Second is a most serious legal and ethical consideration. Mr. Connolly has represented General Motors for a number of years. We call to your attention that the EEOC has been and continues to be involved in major litigation against and investigation of General Motors. This situation presents a major conflict of interest. For this reason, we believe that the Committee must be assured that the nominee will recuse himself from any enforcement action involving General Motors, to avoid even the appearance of such a conflict.

Lastly, the narrow interpretations of Title VII law that General Motors has urged have alarming implications when considered in the context of the responsibility of developing Title VII law that rests with the EEOC General Counsel. For example, General Motors has urged a position that would drastically limit the scope of systemic litigation under Title VII. See Movement for Equality and Opportunity v. General Motors Corp., 622 F.2d 1235, 1245,

22 FEP Cases 1010, 1016-17 (7th Cir. 1980). Such a narrow reading of existing Title VII precedent completely undercuts the intent of the Civil Rights Act. In light of this, it is important that the nominee pursue a litigation and enforcement policy that comports with the mandate of the Civil Rights Act.

In conclusion, appointment of Mr. Connolly as General Counsel of the EEOC similarly raises serious concerns. His professional background is entirely one of defending employers from discrimination suits. Nothing in this background leads us to believe that he will make a strong enforcer of the anti-discrimination laws.

Mr. FLOREZ. There is a letter from Senators Kennedy, Williams, Eagleton, Metzenbaum, Pell, and Riegle, which reads as follows:

Dear Orrin, my colleagues and I regret that we are unable to participate in today's hearing. We believe that the nominees appearing before the committee today are being considered for two of the most sensitive posts in one of the most important Federal agencies in the Government.

The Equal Employment Opportunity Commission is charged with enforcing and promoting the most basic rights in our society, the right to a job regardless of race, sex, or religion, and the right to equal and fair compensation for that job. The decisions made by the EEOC affect the economic welfare of every working man and woman in this country.

The EEOC has had a checkered history. The agency suffered for a number of years from poor management and lack of direction. Both complainants and employers criticized the time it took to process cases and the bureaucratic morass that characterized the agency. Reforms introduced in recent years have changed the image. The backlog of complaints has been reduced and more efficient procedures have won praise from most quarters.

We are concerned that the new leadership of the EEOC not retreat on this progress. Equal employment opportunity is still denied to many. Unemployment among black Americans is over 15 percent. Women still earn just 59 cents for every dollar earned by a man.

We have prepared the attached questions for Mr. Bell and Mr. Connolly in order to supplement background materials previously submitted and to solicit their views on what we believe are the most important issues facing the EEOC in the next 4 years. We would appreciate your cooperation and assistance in obtaining answers to these questions and look forward to the responses of the witnesses.

We will be getting these questions to you, Mr. Connolly and Mr. Bell.

[The material supplied follows:]

QUESTIONS SUBMITTED BY MINORITY MEMBERS OF THE
SENATE LABOR AND HUMAN RESOURCES COMMITTEE

ANSWERS BY: Michael J. Connolly
Nominee for Position of
General Counsel of the EEOC

1. Mr. Connolly, while you have experience with EEO law, you do not have substantial experience in managing a large litigation program. The EEOC has been criticized in some quarters for the poor quality of its trial work and for litigating too few cases.

How would you respond to this criticism? What plans do you have to improve the image and performance of the General Counsel's office in the area of litigation?

A. With deference, I would submit that it is not true that I do not have substantial experience in managing a large litigation program. To the contrary, while I was at General Motors, I oversaw the work of lawyers throughout the country. Additionally, I was personally responsible for trying OSHA and EEOC cases in all sections of the United States. My experience in both managing lawsuits and trying them will be of great benefit in organizing the caseload of the EEOC, training of its attorneys, and upgrading the quality of representation this agency deserves.

2. What would you do to improve the agency's process for deciding whether or not systemic cases should be brought? Can't better use be made of the data obtained from complaints handled under the rapid charge system? What are your priorities for systemic work?

A. Because of the limited resources of the EEOC systemic cases should only be brought in cases where employers are recalcitrant and have shunned their statutory obligations.

I would propose passing over employers who have demonstrated, during the relevant time period (United Air Lines v. Evans, 431 U.S. 553 (1977)), that their personnel transactions have been consistent with the Civil Rights laws the EEOC enforces.

In terms of data obtained in the rapid charge process, I would recommend computerizing the data both by employer and facility so that any future reconsiderations could be made with minimal effort and expense.

As stated earlier the priority for systemic cases would involve employers who were afforded an opportunity to hire, transfer, or promote during the relevant time period but refused to do so.

3. The EEOC is also responsible for handling cases of discrimination in the federal sector. There are significant differences in the deadlines for filing complaints imposed on federal employees by regulations. A federal employee has just 30 days, while a worker covered under Title VII has 180 days to bring a charge.

Have you considered trying to achieve greater conformity procedures established under Title VII and those affecting federal workers?

A. I do not think it is my place to change the time limitations for filing charges against the Federal Government. However, should Congress feel that it is appropriate to have time periods that conform I certainly would support the changes.

4. While the EEOC employs hundreds of lawyers few of them are involved in litigation. I'm told that EEO lawyers litigate fewer than two cases per lawyer. The average in the Justice Department is much higher.

How would you respond to this criticism? What are your plans for correcting this problem?

A. I think that the emphasis has been placed on settling rather than trying lawsuits. To the extent that reasonable settlements can be worked out it makes sense to follow that course of action. However, where settlement is not realistic or appropriate, we will move forward as expeditiously as possible to get to trial. Greater emphasis will be placed on trying individual cases or local class action cases rather than nationwide class actions. Indeed, I would not recommend any nationwide class action law suits.

In any event, lawyers will be trained to try lawsuits rather than engage in lengthy, drawn out investigations.

5. The EEOC has been involved for a number of years in a major case against General Motors. It is my understanding that the findings of this investigation will be presented to the Commission shortly.

What has been your involvement with this case? What assurance can you give this Committee that will avoid the potential conflict of interest that this case presents for you?

A. I have not been involved in the General Motors Track 1 case other than minimal discussions because it started before I joined the company. Moreover, I had sole responsibility for General Motors Occupational Safety and Health cases as well as some general labor responsibility when I first came with the company in 1977. Of course, it would be my absolute intention to insulate myself totally from this and any other General Motors case. I will identify an attorney on my staff to be solely responsible for this case as well as any other case handled by my brother's law firm discussed in question 6.

6. You and your brother have co-authored a major guide for employers on EEO law. Your brother is active in representing management in EEO cases here in Washington.

How do you plan to insulate yourself from cases that your brother might bring before the EEOC to avoid even the potential for conflict?

A. I will recuse myself from any deliberation relative to cases handled by my brother's law firm.

7. There is some concern on the part of women's and civil rights groups that you come to the EEOC General Counselship with a pro-employer bias and insufficient sensitivity to EEO issues as they affect women and minorities in the workforce. Your EEO law practice guide tends to reinforce this impression. As stated in the introductions, it is a manual for employers.

What assurance can you give the Committee that you are equally concerned about the welfare and protection of workers? Will you be willing to meet regularly with representatives of women's and civil rights groups?

A. I find it rather anomalous that any group that suggests that employers discriminate against constituents would also complain about books that are written exclusively to educate employers as to what their legal obligations are under various Civil Rights statutes. Indeed, the book "A Practical Guide to Equal Employment Opportunity" was and is intended to do nothing more than to educate employers as to what the rights and obligations are under the various Civil Rights statutes.

I also can assure the Committee that if confirmed the Office of the General Counsel will work dilligently for the benefit and protection of all workers. Furthermore, I will meet regularly with both business and civil rights groups for their input.

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QUESTIONS SUBMITTED BY MAJORITY MEMBERS OF THE
SENATE LABOR AND HUMAN RESOURCES COMMITTEE

ANSWERS BY: Michael J. Connolly
Nominee for Position of
General Counsel of the EEOC

1. Mr. Connolly, you have spent a great deal of time across the counsel table, litigating cases against the EEOC. Without asking you to criticize particular individuals, I am wondering whether you could comment on the overall effectiveness of the general counsel's office as a litigator, particularly in class actions?

   Where do you see the need, if any, for improvement of the general counsel's litigating capacity?

   Do you think EEOC should redirect its litigating resources toward certain cases, with an eye toward maximizing the effectiveness of its resources?

A. I do not have a sufficient basis to criticize any of my fellow attorneys. However, it is apparent to me that every lawyer, including myself, can improve his or her skills. What I will immediately impose is a series of training programs to help better prepare our attorneys for both trial and pre-trial activities.

   I would also hope to see the EEOC set up a litigation schedule for dealing with individual cases as well as class actions. Perhaps the trial of many individual cases in a given year would have a better affect than the trial of one large class action every few years.

2. Within the past few years, several companies and especially universities have found themselves subject to duplicitous enforcement proceedings based on the same claim of discriminatory conduct. At any given time, for example, a university might find itself subject to legal actions brought under Title VI of the Civil Rights Act, Title IX of the Education Act, Section 503 and 504 of the Rehabilitation Act, Title VII of the Civil Rights Act, and Executive Order 11246 to remedy the same or a closely related instance of discrimination. What steps will you take to insure that the government's enforcement efforts are more closely coordinated?

A. It is imperative that companies and universities only be subjected to investigation by one governmental agency at a time. It would appear to be advisable to set up a coordinating committee that could help oversee diverse government enforcement actions.

3. My next question concerns investigations made by EEOC following the receipt of a charge of discrimination. Some courts have said that a single charge gives the commission a "jurisdictional springboard" which may be used to conduct what ends up being a fishing expedition into the company's records. Other courts, however, state that the commission does NOT have the right to ramble through company records purely in the hope of discovering violations. Business people frequently complain of the voluminous records they must produce for EEOC without any valid basis for requesting such information. In the future, will the Commission's investigations be confined to the facts alleged in the underlying charge?

A. In the future the EEOC will only investigate facts surrounding the underlying charge. Moreover, where the charge alleges classwide discrimination we will need the flexibility to decide how far an investigation ought to be carried. In any event, "fishing expeditions" will be discontinued absent the filing of a classwide charge.

4. Attorney General William French Smith has stated publicly that the Reagan Administration would seek remedies other than hiring quotas and goals in employment discrimination cases. The head of the Justice Department's Civil Rights Division, Assistant Attorney General William Bradford Reynolds echoed this statement in his recent testimony before a house subcommittee. Obviously, this policy differs from the position of the EEOC in previous employment discrimination litigation where remedial quotas and goals have been routinely sought. As general counsel, what approach will YOU take?

A. As we all know courts have imposed quotas in the past on employers who have engaged in pervasive discriminatory practices. Goals and quotas ought never be appropriate in individual cases, nor should they be imposed where no finding of discrimination has been made.

As General Counsel at the EEOC I will need the flexibility to analyze cases to determine what remedy will or will not be appropriate. I have no preconcieved notion as to what should or should not be included. Unusual cases may require unusual remedies.

5. What are your views on how you, as the EEOC general counsel, will coordinate its activities and enforcement policies with the attorney general?

To what extent do you feel obligated to fulfill the policy directives of the justice department?

5. (question continued)

Do you feel independent from the Justice Department's Civil Rights Division?

To what extent will you take your direction from the EEOC Commissioners?

A. Regardless of statutory requirements I believe it is imperative that the EEOC General Counsel coordinate its policies with both the Attorney General's office in the Justice Department's office of Civil Rights, to the extent that the Justice department's mandate is different from the EEOC's Congressional mandate. We must maintain the ability to make independent decisions. It is my hope that the Justice Department, the EEOC and the OFCCP could work together. Since the EEOC is an independent agency, it must be so operated, however, we would look for guidance and help from all quarters including the White House and this Committee, as well as a variety of public interest groups.

6. The legislative history of the 1978 Amendments to the Age Discrimination Employment Act (ADEA) made it clear that the new law would not impose liability retroactively on employers who had involuntarily retired employees prior to age 65 under a bonafide retirement plan. EEOC, nonetheless, has argued in a number of court cases that the amendment prohibiting involuntary retirement should be retroactively applied. Its position has been universally rejected by the Federal Court of Appeals. (See, e.g., Sikora v. American Can Co., 622 F.2d 1166 (3rd Cir. 1980)).

Do you plan to continue arguing this position?

A. At this point, EEOC's argument has been rejected by virtually every court, including at least four courts of appeals and district courts which cover most of the major metropolitan areas of the country. (See, e.g., Sikora v. American Can Co., 622 F.2d 116 (3d Cir. 1980); Jensen v. Gulf Oil Ref. & Marketing Co., 623 F.2d 406 (5th Cir. 1980); Smart v. Porter Paint Co., 630 F.2d 490 (7th Cir. 1980); EEOC v. Shell Oil Co., 637 F.2d 683 (9th Cir. 1981; EEOC v. Home Ins. Co., 25 EDP ¶31556 (S.D.N.Y. Jan. 21, 1981).

In view of the persuasive reasoning of these decisions, there seems little likelihood that other courts of appeals will now accept EEOC's argument. As a result, while EEOC may have had an arguable position and while it may have been a sound decision to press that argument initially, I would be inclined to conclude that the courts have sufficiently spoken so that the prudent course for EEOC is to devote its limited resources to issues that have a greater prospect for success. This is particularly so in view of the fact that for future terminations the governing law is that established by the 1978

6. (Answer continued)

Amendments. As the statute of limitations has now run on most pre-Amendment terminations, the claim of retroactivity would only benefit a relatively limited number of employees whose terminations are already the subject of litigation. In sum, on a cost-benefit basis, continued pursuit of EEOC's retroactivity claim would not seem justifiable.

7. Recently, the Olin Corporation was sued by the EEOC for barring women of childbearing capability from certain chemically hazardous jobs. Under the company's policy, such women were barred from holding jobs in certain restricted areas where exposure to known or suspected abortifacient or teratogenic (fetus impairing) agents occurred. Nonpregnant women were permitted to work in jobs that required very limited contact with those agents only after receiving counseling and with the understanding that they would notify their supervisor should they become pregnant.

In its suit against the company, the EEOC contended that since the company did not exclude males from restricted jobs because of possible damage to their reproductive organs, the policy discriminated against women employees and was a violation of Title VII. The company responded that the policy was instituted as a safety consideration because of possible harmful effects the chemical could have on the unborn fetus, and called several experts to testify in detail regarding the necessity of the policy. The court agreed with the company, but apparently EEOC is considering appealing the decision. As General Counsel of the Commission, will you put an end to such suits? I note that the judge in this case noted that few females want to work in the restricted areas and no female employee ever filed a suit against the company on this issue.

A. With great deferance this issue has the potential of being determined by the United States Supreme Court and if I am confirmed I would be required to consult with the Solicitor General on what the position of the EEOC would be. Therefore, it would be premature and inappropriate to take a position on this issue at this time.

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Mr. FLOREZ. We stand adjourned.

[Whereupon, at 2:55 p.m., the committee recessed, to reconvene at the call of the Chair.]

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